

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

SENTENCING POSITION OF THE UNITED STATES

The United States by and through counsel, Assistant United States Attorney Eric M. Hurt, files this Position on Sentencing. For the reasons set forth *infra*, the United States requests a sentence of two years' probation.

Statutory Considerations

The defendant pleaded guilty on April 8, 2024, to Count 59 of the Indictment, Use of a Communication Facility in Furtherance of Drug Trafficking, which carries a maximum penalty of four years imprisonment and up to five years of probation. The court may sentence the defendant to any term of imprisonment up to 48 months.

Impact of the Plea Agreement

The defendant entered his plea of guilty to Count 59 of the Indictment pursuant to a plea agreement. There are no provisions in the agreement which impact the Court's sentencing options.

Sentencing Guidelines Calculation

The United States Probation Department prepared a Presentence Report (PSR) which detailed the offense of conviction and the characteristics of the defendant. In calculating the offense level for the defendant, the probation office assigned a base offense level of 14 under U.S.S.G. §§ 2D1.1 based upon a drug weight of 18.14 kilograms of marijuana. Two points were

subtracted due to the defendant's qualification for the 'Safety Valve' under U.S.S.G. § 2D1.1(b)(18). Two more points were subtracted because the defendant has zero criminal history points and finally, two points were subtracted for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a). Thus, the defendant's total offense level is 8.

The probation officer also calculated a criminal history level for the defendant. The defendant has no prior convictions. She therefore has 0 criminal history points and a criminal history category of I.

As a criminal history category I defendant, with an adjusted offense level of 8, the defendant's sentencing guidelines range is 0-6 months on Count 59.

Statutory Sentencing Factors under 18 U.S.C. § 3553(a)

As outlined *supra*, the sentencing range under the guidelines is 0-6 months. The United States will now address the statutory factors that support its request for a sentence of two years' probation.

A. Nature of the Offense

The defendant was a courier for a large marijuana trafficking organization. This conduct is set out in greater detail in PSR ¶¶ 42-46.

B. History and Characteristics of the Defendant

The defendant is a 26-year-old female native of Newport News who was raised by both parents. She has one surviving sibling, is not married, and has no children. The defendant's current medical condition is marked by good health and she reports no current emotional or psychological issues. The defendant does not use drugs or alcohol. She graduated from high school and has worked consistently since 2015 in a variety of wage earner jobs. The defendant has a net worth of \$85.00 and a monthly net income of \$780.16.

C. Need for Just Punishment

The defendant was a small part of a significant drug trafficking organization. However, she has never been prosecuted before. A sentence of probation is supported for a first-time offender who had a limited role in the organization.

D. Deterrence

The two types of deterrence at issue are general and specific. On the issue of general deterrence, the public must have confidence that the activities of the defendant and those who stood to gain from her actions are deterred from future crimes. The public should look at the actions of the defendant; a courier who was transporting bulk marijuana on commercial airlines and know that such an act does not go unpunished.

As for specific deterrence, this defendant pleaded guilty. This is a positive first step towards individual deterrence. The defendant is also a first-time offender and appears amenable to being crime free in the future. The United States does not believe active imprisonment is necessary for specific deterrence for this defendant.

E. Need to Protect Society

The defendant does not appear to pose a risk to society. While transporting bulk marijuana on a commercial aircraft is a dangerous activity, the defendant did not engage in violence or use a firearm. Given these factors, the need for societal protection appears limited.

F. Avoiding Sentencing Disparities

The United States does not believe disparity is implicated if the court follows the United States sentencing recommendation.

Conclusion

The defendant was engaged in transporting marijuana for a large organization. Given her limited role, her acceptance of responsibility and her lack of danger to society, the United States believes a two-year period of probation is appropriate in this case.

Respectfully submitted,

JESSICA D. ABER
UNITED STATES ATTORNEY

By: _____/s/

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Certificate of Service

I certify that on August 2, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification to all counsel of record.

By: _____/s/

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